

AN ACT

relating to the recusal and disqualification of municipal judges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 29, Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. RECUSAL OR DISQUALIFICATION OF MUNICIPAL JUDGES

Sec. 29.051. DEFINITIONS. In this chapter:

(1) "Active judge" means a person who holds office as a district court judge or statutory county court judge.

(2) "Presiding judge" means the presiding judge of a municipal court, including a municipal court of record.

(3) "Regional presiding judge" means the presiding judge of the administrative judicial region appointed under Section 74.005.

Sec. 29.052. MOTION FOR RECUSAL OR DISQUALIFICATION. (a) A party in a hearing or trial in a municipal court, including a municipal court of record, may file with the clerk of the court a motion stating grounds for the recusal or disqualification of the municipal judge. The grounds may include any disability of the judge to preside over the case.

(b) A motion for the recusal or disqualification of a municipal judge must:

(1) be filed at least 10 days before the date of the hearing or trial, except as provided by Subsection (c);

1 (2) be verified; and

2 (3) state with particularity the alleged grounds for
3 recusal or disqualification of the judge based on:

4 (A) personal knowledge that is supported by
5 admissible evidence; or

6 (B) specifically stated grounds for belief of the
7 allegations.

8 (c) A motion for recusal or disqualification must be filed
9 at the earliest practicable time before the beginning of the trial
10 or other hearing if a judge is assigned to a case 10 or fewer days
11 before the date set for a trial or hearing.

12 Sec. 29.053. NOTICE. A party filing a motion for recusal or
13 disqualification under this subchapter shall serve on all other
14 parties or their counsel:

15 (1) copies of the motion; and

16 (2) notice that the movant expects the motion to be
17 presented to the judge three days after the filing of the motion
18 unless the judge orders otherwise.

19 Sec. 29.054. STATEMENT OPPOSING OR CONCURRING WITH
20 MOTION. A party may file with the clerk of the court a statement
21 opposing or concurring with a motion for recusal or
22 disqualification at any time before the motion is heard.

23 Sec. 29.055. PROCEDURE FOLLOWING FILING OF MOTION; RECUSAL
24 OR DISQUALIFICATION WITHOUT MOTION. (a) Before further proceedings
25 in a case in which a motion for the recusal or disqualification of a
26 municipal judge has been filed, the judge shall:

27 (1) recuse or disqualify himself or herself; or

1 (2) request the regional presiding judge to assign a
2 judge to hear the motion.

3 (b) A municipal judge who with or without a motion recuses
4 or disqualifies himself or herself:

5 (1) shall enter an order of recusal or
6 disqualification and:

7 (A) if the municipal judge is not the presiding
8 judge, request the presiding judge to assign any other judge of the
9 municipal court, including the presiding judge, to hear the case;

10 (B) if the municipal judge is the presiding
11 judge, request the regional presiding judge to assign another judge
12 of the municipal court to hear the case; or

13 (C) if the municipal judge serves in a
14 municipality with only one municipal judge, request the regional
15 presiding judge to assign a judge of another municipal court in the
16 county to hear the case; and

17 (2) may not take other action in the case, except that
18 a judge who recuses himself or herself for good cause may take other
19 action as stated in the order in which the action is taken.

20 (c) A municipal judge who does not recuse or disqualify
21 himself or herself:

22 (1) shall forward, in original form or certified copy,
23 an order of referral, the motion, and all opposing and concurring
24 statements to the regional presiding judge; and

25 (2) may not take other action in the case during the
26 time after the filing of the motion for recusal or disqualification
27 and before a hearing on the motion, except for good cause stated in

1 the order in which the action is taken.

2 Sec. 29.056. HEARING ON MOTION. (a) A regional presiding
3 judge who receives a request for the assignment of a judge to hear a
4 motion to recuse or disqualify shall:

5 (1) immediately set a hearing before the regional
6 presiding judge, an active judge, or a judge on the list of judges
7 who are eligible to serve on assignment under Section 74.055;

8 (2) cause notice of the hearing to be given to all
9 parties or their counsel; and

10 (3) make any other orders, including orders on interim
11 or ancillary relief in the pending cause as justice may require.

12 (b) A judge who hears a motion for recusal or
13 disqualification under Subsection (a) may also hear any amended or
14 supplemented motion for recusal or disqualification filed in the
15 case.

16 (c) If none of the parties to an action object, a hearing
17 under Subsection (a) or (b) may be conducted by telephone.

18 Sec. 29.057. PROCEDURE FOLLOWING GRANTING OF MOTION. (a)
19 If a motion for recusal or disqualification is granted after a
20 hearing is conducted as provided by Section 29.056, the judge who
21 heard the motion shall enter an order of recusal or
22 disqualification, and:

23 (1) if the judge who was the subject of the motion is
24 not the presiding judge, request that the presiding judge assign
25 any other judge of the municipality, including the presiding judge,
26 to hear the case;

27 (2) if the judge who was the subject of the motion is

1 the presiding judge, request the regional presiding judge to assign
2 another judge of the municipality to hear the case; or

3 (3) if the judge subject to recusal or
4 disqualification is located in a municipality with only one
5 municipal judge, request the regional presiding judge to assign a
6 judge of another municipal court in the county to hear the case.

7 (b) If the presiding judge is unable to assign a judge of the
8 municipality to hear a case when a municipal judge is recused or
9 disqualified under Section 29.055 or 29.056 because there are not
10 any other municipal judges in the municipality or because all the
11 municipal judges have been recused or disqualified or are otherwise
12 unavailable to hear the case, the presiding judge shall request the
13 regional presiding judge to first assign a municipal judge from
14 another municipality in the county or, if necessary, assign a
15 municipal judge from a municipality in an adjacent county to hear
16 the case.

17 (c) If the regional presiding judge is unable to assign a
18 judge to hear a case when a municipal judge is recused or
19 disqualified under Section 29.055 or 29.056 because there are not
20 any other municipal judges in the county or because all the
21 municipal judges have been recused or disqualified or are otherwise
22 unavailable to hear the case, the regional presiding judge may
23 assign a municipal judge from a municipality in an adjacent county
24 to hear the case.

25 Sec. 29.058. APPEAL. (a) After a municipal court of record
26 has rendered a final judgment in a case, a party may appeal an order
27 that denies a motion for recusal or disqualification as an abuse of

1 the court's discretion.

2 (b) A party may not appeal an order that grants a motion for
3 recusal or disqualification.

4 Sec. 29.059. CONTEMPT. If a party files a motion to recuse
5 or disqualify under this subchapter and it is determined by the
6 judge hearing the motion, at the hearing and on motion of the
7 opposing party, that the motion to recuse or disqualify is brought
8 solely for the purpose of delay and without sufficient cause, the
9 judge may in the interest of justice find the party filing the
10 motion in contempt under Section 21.002(c).

11 Sec. 29.060. COMPENSATION. (a) An active judge who is
12 assigned to hear a motion to recuse or disqualify a municipal judge
13 under this subchapter is not entitled to additional compensation
14 other than travel expenses. A judge assigned to hear a motion to
15 recuse or disqualify who is not an active judge is entitled to:

16 (1) compensation of \$450 per day of service, prorated
17 for any day for which the judge provides less than a full day of
18 service; and

19 (2) travel expenses.

20 (b) A municipal judge assigned under this subchapter to hear
21 a case in a court other than the one in which the judge resides or
22 serves is entitled to compensation provided by law for judges in
23 similar cases and travel expenses.

24 (c) The municipality in which a case subject to this
25 subchapter is pending shall pay the compensation and travel
26 expenses due or incurred under this subchapter.

27 SECTION 2. Subchapter A, Chapter 29, Government Code, is

1 amended by adding Section 29.013 to read as follows:

2 Sec. 29.013. REPORT TO TEXAS JUDICIAL COUNCIL. (a) The
3 secretary of the municipality in a municipality with a municipal
4 court, including a municipal court of record, or the employee
5 responsible for maintaining the records of the municipality's
6 governing body shall notify the Texas Judicial Council of the name
7 of:

8 (1) each person who is elected or appointed as mayor,
9 municipal court judge, or clerk of a municipal court; and

10 (2) each person who vacates an office described by
11 Subdivision (1).

12 (b) The secretary or employee shall notify the judicial
13 council not later than the 30th day after the date of the person's
14 election or appointment to office or vacancy from office.

15 SECTION 3. The following sections are repealed:


16 (1) Section 29.012, Government Code; and

17 (2) Section 22.073(c), Local Government Code.

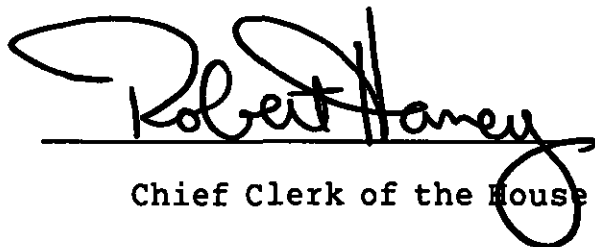
18 SECTION 4. Subchapter A-1, Chapter 29, Government Code, as
19 added by this Act, applies only to a hearing or trial initially
20 filed in a municipal court on or after the effective date of this
21 Act.

22 SECTION 5. This Act takes effect September 1, 2011.

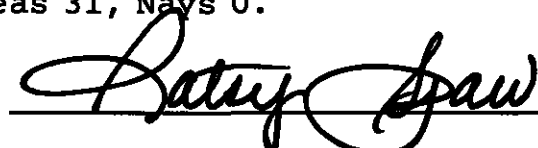

President of the Senate

H.B. No. 3475

Speaker of the House

I certify that H.B. No. 3475 was passed by the House on May 11, 2011, by the following vote: Yeas 142, Nays 7, 1 present, not voting.

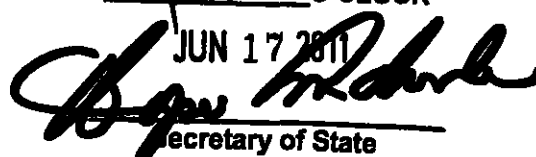

Chief Clerk of the House

I certify that H.B. No. 3475 was passed by the Senate on May 25, 2011, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 17 JUN '11
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 O'CLOCK
JUN 17 2011

Secretary of State